

**REMARKS**

Claims 1-13, 17-18, 20-35 and 38-39 are pending in the present application. In the Office Action mailed September 11, 2006, the Examiner stated that “[t]he reply filed on 06/28/06 is not fully responsive to the prior Office Action because... in order for Examiner to reconsider those withdrawn claims 1-13, 17-18, 20, 24-28, 32-35 and 38-39, Applicants are requested to point out how each of the limitations of those withdrawn claims read on the elected species of figure 5.” Applicant respectfully disagrees with the Examiner’s assertion that the prior response of June 28, 2006 was “not fully responsive.”

MPEP 714.02 states that an Applicant’s reply to an Office Action “must be reduced to a writing which distinctly and specifically points out the supposed errors in the examiner's action and must reply to every ground of objection and rejection in the prior Office action.” (emphasis added) Applicant’s reply to the Office Action of March 29, 2006 was responsive to every ground of objection and rejection, and thus was a proper reply under the guidelines set forth by the MPEP. Applicant believes that the prior reply was responsive and is unaware of any grounds in the MPEP on which to base the current assertion that the prior reply was not fully responsive. Applicant respectfully requests a citation to the MPEP should the Examiner disagree.

Applicant also notes that the request for reconsideration of the Restriction Requirement of February 10, 2006 included in the reply filed June 28, 2006 was not required for that reply to be fully responsive. Rather, it was included at the discretion of the Applicant to further address the election and response that had previously been submitted on March 13, 2006 regarding the Examiner’s initial Restriction Requirement. Thus, Applicant believes that the reply filed June 28, 2006 was fully responsive to the Office Action of March 29, 2006. If the Examiner insists on restriction of the claims, then Applicant merely requests that the Petition Seeking Supervisory Review of the Restriction Requirement, filed concurrently with the reply on June 28, 2006, be considered by the Group Director of Art Unit 2829 and a decision be made thereon.

Additionally, in the September 11, 2006 Action, the Examiner points out Applicant’s use of the word “embodiment” and some how suggests that the use of the word “embodiment” necessarily equates to separate species. There is no support in the MPEP, the CFR, Statutes, or Case Law for such a position. The Examiner is requested to review the MPEP and Applicant’s Request for Supervisory Review of the Restriction Requirements for a detailed analysis of a proper restriction based on separate

species. Clearly, the use of “embodiment” and the description of various embodiments is not a proper basis for a species restriction.

Lastly, the Examiner “requested” that the Applicant “point out how each of the limitations of those withdrawn claims read on the elected species of figure 5.” Applicant has set forth its position in the Request for Supervisory Review. The restriction is improper and Applicant respectfully requests rejoinder.

Applicant appreciates the Examiner’s consideration of these Remarks and cordially invites the Examiner to call the undersigned, should the Examiner consider any matters unresolved.

Respectfully submitted,

/Timothy J. Ziolkowski/

<sup>1</sup>Timothy J. Ziolkowski  
Registration No. 38,368  
Direct Dial 262-376-5139  
tjz@zpspatents.com

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**P.O. ADDRESS:**

Ziolkowski Patent Solutions Group, SC  
14135 North Cedarburg Road  
Mequon, WI 53097-1416  
262-376-5170

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<sup>1</sup>The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-2623. Should no proper payment be enclosed herewith, as by credit card authorization being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-2623. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extensions under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-2623. Please consider this a general authorization to charge any fee that is due in this case, if not otherwise timely paid, to Deposit Account No. 50-2623.